

Title 47. Nuisances

Chapter 1 Brothels

47-1-1 Declared a nuisance -- Abatement.

Whoever shall erect, establish, maintain, use, own or lease any building, structure or place, for the purpose of lewdness, assignation or prostitution is guilty of nuisance, and such building, structure or place, and the ground itself, in or upon which such lewdness, assignation or prostitution is conducted, permitted or carried on, and the furniture, fixtures and musical instruments therein and the contents thereof are declared a nuisance, and shall be enjoined and abated as hereinafter provided.

No Change Since 1953

47-1-2 Injunction -- Notice to owner of premises.

Whenever a nuisance as defined in this chapter is kept or maintained, or exists, the county attorney or any citizen of the county may maintain an action in equity in the name of the state of Utah, upon the relation of such county attorney or citizen, to perpetually enjoin such nuisance, the person or persons conducting or maintaining the same and the owner or agent of the building or ground upon which it exists; provided, that when the owner or agent is not in the actual possession of the premises he shall have, before an action is brought under this chapter against him or affecting his real estate, notice in writing of the existence and nature of the nuisance, and he shall have a reasonable time after service of such notice in which to abate the nuisance. In such action the court, or a judge thereof, shall upon the presentation of a complaint therefor alleging that the nuisance complained of exists, allow a temporary writ of injunction without bond, if it shall be made to appear to the satisfaction of the court or judge that such nuisance exists, by evidence in the form of affidavits, depositions, oral testimony or otherwise, as the complainant may elect, unless the court or judge, by previous order, shall have directed the form and manner in which it shall be presented. Three days' notice in writing shall be given the defendant of the hearing of the application, and if then continued at his instance, the writ as prayed for shall be granted as a matter of course. When an injunction has been granted it shall be binding on the defendant throughout the judicial district in which it was issued, and any violation of the provisions of the injunction herein provided for shall be a contempt as hereinafter provided.

No Change Since 1953

47-1-3 Evidence -- Dismissal of action -- Costs.

In such action evidence of the general reputation of the place shall be admissible for the purpose of proving the existence of the nuisance. If the complaint is filed by a citizen, it shall not be dismissed except upon a sworn statement made by the relator and his attorney setting forth the reasons why the action should be dismissed, and the dismissal approved by the county attorney in writing or in open court. If the court is of the opinion that the action ought not to be dismissed, it may direct the county attorney to prosecute the action to judgment, and, if the action is continued for more than one term of court, any citizen of the county or the county attorney may be substituted for the relator and prosecute the action to judgment. If the action is brought by a citizen and the

court finds there was no reasonable ground or cause therefor, the costs may be taxed to such citizen.

No Change Since 1953

47-1-4 Violation of injunction -- Proceedings for contempt.

In case of the violation of any injunction granted under the provisions of this chapter, the court, or a judge thereof, may summarily try and punish the offender. The proceedings shall be commenced by filing with the clerk of the court an information, under oath, setting out the facts constituting the violation, upon which the court or judge shall cause a warrant to issue, under which the defendant shall be arrested. The trial may be had upon affidavits, or either party may demand the production and oral examination of witnesses. A party found guilty of contempt under this section is guilty of a class B misdemeanor. A fine imposed shall be not less than \$200 and any imprisonment in the county jail shall be not less than three nor more than six months.

Amended by Chapter 178, 1986 General Session

47-1-5 Order of abatement -- Execution -- Sale of personal property -- Padlocking.

If the existence of the nuisance is established in an action as provided in this chapter, an order of abatement shall be entered as a part of the judgment in the case. The order shall direct the removal from the building or place of all fixtures, furniture, musical instruments, and movable property used in conducting the nuisance, and shall direct the sale thereof in the manner provided for the sale of chattels under execution, and shall further direct the effective closing of the building or place against its use for any purpose, and the keeping of it so closed for a period of one year, unless sooner released. If any person shall break and enter or use a building, structure, or place so directed to be closed, he shall be punished as for contempt as provided in Section 47-1-4. For removing and selling the movable property the officer shall be entitled to charge and receive the same fees as for levying upon and selling like property on execution; and for closing the premises and keeping them closed a reasonable sum shall be allowed by the court.

Amended by Chapter 4, 1993 General Session

47-1-6 Proceeds of sale -- Disposition.

The proceeds of the sale of the personal property shall be applied in payment of the costs of the action and abatement, and the balance, if any, shall be paid to the defendant.

No Change Since 1953

47-1-7 Bond to secure abatement -- Procedure.

If the owner appears and pays all costs of the proceeding and files a bond, with sureties to be approved by the clerk, in the full value of the property, to be ascertained by the court, or in vacation by the clerk, auditor and treasurer of the county, conditioned that he will immediately abate the nuisance and prevent the same from being established or kept therein within a period of one year thereafter, the court or the judge may, if satisfied of his good faith, order the premises that have been closed under the order of abatement to be delivered to the owner, and the order of abatement may be canceled so far as the same may relate to said property; and, if the proceeding is an action in equity and such bond is given and costs therein paid before judgment and order of abatement, the action shall be thereby abated as to the building only. The release of the property

under the provisions of this section shall not release it from any judgment, lien, penalty or liability to which it may be subject by law.

No Change Since 1953

47-1-8 Permanent injunction -- Fine.

Whenever a permanent injunction issues against any person for maintaining a nuisance as provided, or against any owner or agent of the building kept or used for the maintenance of the nuisance, all parties found guilty of maintaining the nuisance, or assisting to maintain the nuisance by furnishing or letting the building for the maintenance thereof, or otherwise, shall each be punished by a fine of not more than the maximum fine for a class A misdemeanor. The payment of the fine does not relieve the person or persons from any other penalties provided by law.

Amended by Chapter 178, 1986 General Session

Chapter 2 Abandoned Horses

47-2-1 "Abandoned horse" defined.

The term "abandoned horse" as used in this chapter means any horse, ass, mule or other animal of the genus Equus, unbranded, or, if branded, that has escaped assessment for taxation for the year next preceding the killing of such animal as hereinafter provided for, and running at large upon the open range of this state, and includes a foal running with a dam coming within the above definition. An animal not bearing a decipherable brand recorded in the office of the recorder of marks and brands shall be deemed unbranded.

No Change Since 1953

47-2-2 "Open range" defined.

The term "open range" means all land not privately owned, and includes all roads, outside of private inclosures, used by the public, whether the same have been formally dedicated to the public or not.

No Change Since 1953

47-2-3 Abandoned horses on open range declared a nuisance.

It shall be unlawful for any person to suffer or permit any abandoned horse to run at large upon the open range, and every abandoned horse is declared to be a public nuisance and a public menace, and is condemned subject to the right of its owner to reclaim it under the conditions hereinafter provided.

No Change Since 1953

47-2-4 Elimination by the county executive -- Notice of intention.

(1) The county executive may provide for the elimination of abandoned horses in the respective counties in the following manner:

- (a) The county executive shall cause notice to be:
- (i)
 - (A) published at least once a week for three successive weeks in a newspaper of general circulation published in the county; and
 - (B) in accordance with Section 45-1-101, published for three weeks;
 - (ii) posted in at least five public places outside of the county seat on public highways in such county; and
 - (iii) posted in three public places at the county seat, one of which shall be at the front door of the courthouse.
- (b) The notices posted outside of the county seat shall be posted not less than two miles apart, and all posted notices shall be posted at least 30 days before the date which the county executive shall fix for the beginning of the elimination of abandoned horses from the range in such county as hereinafter provided.
- (2) The notice shall be substantially in the following form:
- Notice is hereby given that in accordance with the provisions of law the county executive of ____ County, Utah, will proceed to eliminate abandoned horses from the open range in said county, and that beginning on _____(month\day\year), a drive will be held, and all abandoned horses running upon the open range will, under the direction and supervision of the county executive, be eliminated. All owners of horses running upon the open range are hereby given notice to file with the county executive a description of the horses, and the brands or marks thereon.
- Dated this _____(month\day\year).
- By order of the county executive of ____ County, Utah.

County Clerk.

Amended by Chapter 388, 2009 General Session

47-2-5 Elimination by the county legislative body -- Method -- Sale.

A policy for the manner and method of eliminating abandoned horses from the open range shall be in the discretion of the county legislative body, and it shall be its duty to so eliminate abandoned horses, using the means most effective and economical under the circumstances. The county executive may sell all captured horses.

Amended by Chapter 227, 1993 General Session

47-2-6 Owners may reclaim -- Damages -- Taxes.

Any person owning any horses which are running at large in any county in which the county executive has given notice of intention to make a drive, as provided in this chapter, may within 30 days after the posting or the first publication of the notice mentioned in Section 47-2-4 file with the county executive a description of such horses claimed by him, giving the marks and brands, if any, which appear thereon, and, if the county executive shall take into its possession any horses so claimed, it shall by registered letter addressed to the owner or claimant of such horses notify him that the same may be claimed within 10 days from the mailing of such notice; and such owner or claimant shall be permitted upon application to the county legislative body to take possession of such horses upon payment of the expense of caring for the same from the date of capture. If any horses are killed by order of the county executive under the provisions of this chapter, a description of which has been reported by the owner thereof to the county legislative body, and ownership

of such animals can be satisfactorily established, such owner shall receive as damage therefor a sum not exceeding \$10 for each animal; provided, that he has paid all taxes assessed against said animal; provided further, that payment of such claims may be made only from proceeds of sales of captured horses.

Amended by Chapter 146, 1994 General Session

47-2-7 Elimination from private property on request.

Abandoned horses may be eliminated from privately owned land by the county executive in the same manner as from the open range when requested so to do by the owner of such land.

Amended by Chapter 227, 1993 General Session

Chapter 3 Shooting Ranges

Part 1 General Provisions

47-3-101 Title.

This chapter is known as "Shooting Ranges."

Enacted by Chapter 155, 2013 General Session

47-3-102 Definitions.

As used in this chapter:

- (1) "Air gun" means a .177 or .20 caliber, or equivalent 4.5mm or 5.0mm, pellet rifle or pellet pistol whose projectile is pneumatically propelled by compressed air or compressed gas such as carbon dioxide.
- (2) "Certified official" means a Range Safety Officer, Firearms Instructor, or Shooting Coach certified by the National Rifle Association or equivalent national shooting organization.
- (3) "Group" means any organized club, organization, corporation or association which at the time of use of the shooting range has a certified official in charge while shooting is taking place and while the range is open.
- (4) "Military range" means a shooting range located on a state military installation.
- (5) "Nonmilitary range" means a shooting range that is not a military range.
- (6) "Political subdivision" has the same meaning as defined in Section 17B-1-102 and includes a school district.
- (7) "Public funds" means funds provided by the federal government, the state, or a political subdivision of the state.
- (8) "Shooting range" or "range" means an area designed and continuously operated under nationally recognized standards and operating practices for the use of rifles, shotguns, pistols, silhouettes, skeet, trap, black powder, archery, or any other similar shooting activities.

Amended by Chapter 258, 2015 General Session

Part 2

Risk and Nuisance

47-3-201 Assumption of risk.

A person who participates in shooting at a shooting range or a public shooting range accepts the associated risks to the extent the risks are obvious and inherent. Those risks include injuries that may result from noise, discharge of projectile or shot, malfunction of shooting equipment not owned by the shooting range or public shooting range, natural variations in terrain, surface or subsurface snow or ice conditions, bare spots, rocks, trees, and other forms of natural growth or debris.

Renumbered and Amended by Chapter 155, 2013 General Session

47-3-202 When nuisance action permitted.

- (1) A state agency or political subdivision shall ensure that any of its rules or ordinances that define or prohibit a public nuisance exclude from the definition or prohibition any shooting range or public shooting range that was established, constructed, or operated prior to the implementation of the rule or ordinance regarding public nuisance unless that activity or operation substantially and adversely affects public health or safety.
- (2) A person who operates or uses a shooting range or a public shooting range in this state is not subject to civil liability or criminal prosecution for noise or noise pollution resulting from the operation or use of the range if:
 - (a) the range:
 - (i) was established, constructed, or operated prior to the implementation of any noise ordinances, rules, or regulations; and
 - (ii) does not substantially and adversely affect public health or safety; or
 - (b) the range:
 - (i) is in compliance with any noise control laws, ordinances, rules, or regulations that applied to the range or public shooting range and its operation at the time of establishment, construction, or initial operation of the range; and
 - (ii) does not substantially and adversely affect public health or safety.
- (3) For purposes of this section, noise generated by a shooting range or public shooting range that is operated in accordance with nationally recognized standards and operating practices is not a public health nuisance.
- (4) For any new subdivision development located in whole or in part within 1,000 feet of the boundary of any shooting range or public shooting range that was established, constructed, or operated prior to the development of the subdivision, the owner of the development shall provide on any plat filed with the county recorder the following notice:

"Shooting Range Area

This property is located in the vicinity of an established shooting range or public shooting range. It can be anticipated that customary uses and activities at this shooting range or public shooting range will be conducted now and in the future. The use and enjoyment of this property is expressly conditioned on acceptance of any annoyance or inconvenience that may result from these uses and activities."

Renumbered and Amended by Chapter 155, 2013 General Session

Part 3

Public Shooting Ranges

47-3-301 Access to publicly funded ranges.

A shooting range, whether indoor or outdoor, constructed with public funds and operated or controlled by the state, an institution of higher education, or a political subdivision, shall, unless specifically exempted in Section 47-3-305, be made available as provided in this section for use by any group.

Enacted by Chapter 155, 2013 General Session

47-3-302 Use and availability.

- (1) Use of a shooting range by a group may not interfere with the use of the range by the state agency, military, institution of higher education, or political subdivision for whom the range was constructed.
- (2) Outdoor shooting ranges shall be available on weekends and holidays, provided they are not being used for shooting and training purposes by the owner or operator of the range.
- (3) Each group that uses a shooting range owned or operated by a state agency, institution of higher education, or political subdivision shall provide a certified official to oversee their shooting activities while on the range. If the group does not have a certified official that is currently available, the owner or operator of the shooting range may provide one and charge a fee for that certified official's time.
- (4) A group using a public shooting range may not have anyone with the group who is prohibited from possessing a firearm.
- (5) Each group shall provide documentation of current and applicable liability insurance or waivers of liability to cover each state agency, institution of higher education, or a political subdivision, for each person shooting on or controlling the shooting range.
- (6) Shooting range operations shall be in accordance with safety standards adopted by the National Rifle Association or equivalent national shooting organization.
- (7) Staff from the owner or operator of the shooting range is not required to be present unless there is no certified official present with the group.
- (8) The certified official in charge at the applicable time shall be responsible for opening and securely closing the shooting range.

Enacted by Chapter 155, 2013 General Session

47-3-303 Rulemaking.

- (1) The State Armory Board, any state agency, or institution of higher education that operates or has control of a shooting range shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement procedures for use of the range by the public.
- (2) The rules shall include provisions requiring indoor shooting ranges to be available on a reservation basis, for firearms not exceeding the range design criteria:
 - (a) at least twice per week;
 - (b) after 4 p.m. on work or school days, or after students and faculty are excused or dismissed on the work or school day; and

- (c) between 8 a.m. and 10 p.m. on weekends.

Enacted by Chapter 155, 2013 General Session

47-3-304 Fees.

- (1) Reasonable fees for the use of a shooting range to cover the incidental material and supply costs incurred by making the range available to a group, may be established by:
 - (a) the State Armory Board established under Title 39, Chapter 2, State Armory Board, for a military range; and
 - (b) for a nonmilitary range, the state agency, institution of higher education, or political subdivision that operates or has control of the range.
- (2) Fees for nonmilitary shooting range use may not exceed fees charged by the Department of Natural Resources for the same or similar activity.
- (3) Fees collected under Subsection (1) shall be:
 - (a) for a shooting range operated or controlled by a state agency or an institution of higher education, deposited in the General Fund as dedicated credits to be used for the operation and maintenance of the range; and
 - (b) for a shooting range operated or controlled by a political subdivision, deposited in the political subdivision's general fund.

Enacted by Chapter 155, 2013 General Session

47-3-305 Exceptions and prohibitions.

- (1) This part does not apply to:
 - (a) shooting ranges that are otherwise open to the public;
 - (b) shooting ranges that are operated as a public shooting range staffed by and operated by Division of Wildlife Resources;
 - (c) the Utah National Guard ranges located at Camp Williams and the Salt Lake International Airport; and
 - (d) ranges owned, operated, or currently leased as of March 26, 2013, by a state or local public safety agency.
- (2) Firearms may not be allowed in a school building, except under the provision of Section 76-10-505.5, unless there is an outdoor entrance to the shooting range and the most direct access to the range is used. An outdoor entrance to a shooting range may not be blocked by fences, structures, or gates for the purpose of blocking the outdoor entrance.
- (3) Only air guns may be used in public ranges where the ventilation systems do not meet current OSHA standards as applied to the duration of exposure of the participants. For the purposes of this part, an air gun does not include larger caliber pneumatic weapons, paintball guns, or air shotguns.
- (4) Group range use is a lawful, approved activity under Subsection 76-10-505.5(4)(a).

Revisor instructions Chapter 155, 2013 General Session

Enacted by Chapter 155, 2013 General Session